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POSTAL TELEGRAPH CABLE COMPANY V. CITY OF RICHMOND.—

Decided at Richmond, January 17, 1901.—*Keith*, P:

1. TELEGRAPH COMPANIES—*License tax—Interstate commerce—Constitutional law.* Telegraph companies are instruments of commerce, and their business is commerce itself. When they have accepted the provisions of the Act of Congress (sec. 5268 Revised Statutes) they become instruments of interstate commerce, and no State or municipal corporation can assess upon them a general license tax, though the property of such companies may be taxed as all other property is taxed.

2. TELEGRAPH COMPANIES—*City license tax—How assessed—How payment enforced.* A city may impose a license fee upon every telegraph company, or agency, doing business in the city, for business done exclusively in the city, not including business done to and from points without the State or business done for the government, its officers or agents, but if engaged in interstate commerce the license tax cannot be in excess of what would be the tax on its property within the city limits under the ordinary modes of taxation, and the payment of such license tax cannot be made a prerequisite to the right of the company to transact business.

SHICKEL V. BERRYVILLE LAND & IMPROVEMENT CO.—Decided at

Richmond, January 17, 1901.—*Keith*, P. Absent, *Phlegar*, J.* *Buchanan*, J., dissenting:

1. CHANCERY PRACTICE—*Suit to enforce vendor's lien—Account.* In a suit to enforce a vendor's lien it is not necessary to order an account of liens before entering a decree of sale, in the absence of any evidence in the record that there are other liens. A court of equity will not assume the existence of liens when there is nothing in the record to suggest them.

2. CHANCERY PRACTICE—*Suit against corporation—Vendor's lien—Parties.* Stockholders of a corporation are not necessary parties to a suit to subject the corporate property to a vendor's lien.

3. CORPORATIONS—*Compensation of officers—Code, sec. 1119—Ratification—Case in judgment.* By section 1119 of the Code, compensation to the president or directors of a corporation can only be allowed by the stockholders, but where such compensation has been allowed by the board of directors, and the matter has been reported to the stockholders and approved by them, this is a sufficient compliance with the law. If not so approved payment cannot be made. In the case in judgment the report of the treasurer, in which the payments made on account of salaries allowed by the board of directors, and the sums still due for such salaries plainly appear, was presented, considered and approved by the stockholders at a general meeting, and this was deemed sufficient.

4. CORPORATIONS—*Assessments—Power of directors.* A resolution of stockholders that "no further assessment shall be made except by direction of the stockholders" leaves the directors of the company clothed with all the other powers which they had before, except the power of assessment. It does not place the company in liquidation. The board still has the power to borrow money needed for the company and to secure the same by a lien on its property.

* Judge Phlegar was interested in the case.